

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA.

2006 OCT 18 PM 12:22

LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN THE MATTER OF:

ATHENA CONSTRUCTION, L.L.C.,
AS OWNER OF BARGE A-106,
PRAYING FOR EXONERATION
FROM OR LIMITATION OF
LIABILITY

CIVIL ACTION

06-8081
SECT. I MAG 2

NO.:

SECTION: " "

JUDGE

MAG.

O R D E R

WHEREAS, A Complaint having been filed herein on October 13, 2006, by Athena Construction, L.L.C., as owner of the *Barge A-106* (hereinafter referred to as "Petitioner"), claiming the benefit of the limitation of liability provided for in 46 U.S.C. § 183, *et seq.*, and Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims, Federal Rules of Civil Procedure, and also contesting the liability of Petitioner for any and all losses, damages, injuries and destruction done or occasioned during the voyage of the *Barge A-106*, on or about October 12, 2006, as described in the Complaint, also stating the facts and circumstances upon which the said limitation of and/or

Fee _____
Process _____
X Dktd _____
✓ CtRmDep _____
Doc. No. _____

exoneration from liability is claimed, and from which it appears that the value of Petitioner's interest in the *Barge A-106* and pending freight, if any, did not exceed the sum of ONE HUNDRED THOUSAND (\$100,000.00) AND NO/100 DOLLARS, and it appearing that claims may be made against Petitioner for losses, damages, injuries, death or destruction alleged to have incurred in consequence of events incurring during the voyage on which the vessel was engaged; and an *Ad Interim* Stipulation having been filed for value, duly executed on October 13, 2006, on behalf of Athena Construction, L.L.C., in the sum of ONE HUNDRED THOUSAND (\$100,000.00) AND NO/100 DOLLARS, together with interest, at the applicable rate per annum, a copy of said *Ad Interim* Stipulation for Value being Appended hereto;

NOW, on motion of Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, L.L.P., Attorneys for Petitioner herein;

IT IS ORDERED that the said *Ad Interim* Stipulation for Value be and the same is hereby approved as security pursuant to Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims, Federal Rules of Civil Procedure; and

IT IS FURTHER ORDERED that the said *Ad Interim* Stipulation for Value shall be without prejudice to the due appraisal of Petitioner's interest in the *Barge A-106* under order of this Court, and that, upon such appraisal, and upon the determination by the Court of any exception thereto, any party may have leave to apply to have the amount of

said *Ad Interim* Stipulation for Value increased or diminished, as the Court may direct; and

IT IS FURTHER ORDERED, that the further prosecution of any pending actions, suits or legal proceedings in any court whatsoever, and the institution and prosecution of any suits, actions or legal proceedings of any nature and description whatsoever in any court, wheresoever, except in this proceeding for limitation of liability, against Petitioner, its controllers, underwriters, or the *Barge A-106*, in respect of any claim arising out of or in connection with the voyage of the *Barge A-106* on or about October 12, 2006, be and the same are hereby stayed and restrained until the hearing and determination of this action, and all warrants of arrests issued in such other suits, actions or legal proceedings be and the same are hereby dissolved; and

IT IS FURTHER ORDERED, that an Notice issue out of and under the seal of this Court to and against all persons or concerns claiming damages for any and all losses or damages arising out of the voyage on which the *Barge A-106* was then engaged, admonishing them and each of them to appear and file their respective claims with the Clerk of this Court, and to serve on or mail to the Attorneys for Petitioner a copy thereof on or before the 18 day of Dec., 2006, and to make due proof of their claims, subject to the right of any such person or persons to controvert or question said claims, with liberty also, to any such claimants who have duly filed their claims to answer the Complaint therein and to file such answers on or before the date heretofore specified; and

IT IS FURTHER ORDERED that public notice of said notice shall be given publication in the newspaper known as the *Times-Picayune* published in New Orleans, Louisiana, and that such notice shall be published once a week for four successive weeks, prior to the date fixed herein, for the filing of claims; and

IT IS FURTHER ORDERED, that not later than the date of the second publication of said notice, Petitioner shall cause to be mailed a copy of the said notice to every person or concern known to have made any claim that remains outstanding against the *Barge A-106*, or against Petitioner, arising out of the voyage on which said vessel was engaged; and

IT IS FURTHER ORDERED, that service of this Order as a Restraining Order be made within this district, or in any other district by the U.S. Marshall for such district, by delivering a copy of this Order to the person or persons to be restrained, or to his or their attorneys.

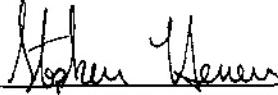
New Orleans, Louisiana, this 16 day of Oct., 2006.



UNITED STATES DISTRICT JUDGE

Respectfully submitted:

**KEAN, MILLER, HAWTHORNE, D'ARMOND,
MCCOWAN & JARMAN, L.L.P.**


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